



Roll Call

NORTHAMPTON
Northampton, MA

CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
WALLACE J. PUCHALSKI MUNICIPAL BUILDING
212 MAIN STREET,

A regular meeting of the City Council was called to order by Council Vice President Gina-Louise Sciarra. Councilor Sciarra announced that she was presiding as Council President Ryan O'Donnell is serving as Acting Mayor under a provision of the charter. At 7:18 p.m. on a roll call the following City Councilors were present:

At-Large Councilor William H. Dwight
Ward 1 Councilor Maureen T. Carney Ward 3 Councilor James Nash
Ward 4 Councilor Gina-Louise Sciarra Ward 5 Councilor David A. Murphy
Ward 6 Councilor Marianne L. LaBarge Ward 7 Councilor Alisa F. Klein

Absent: At-Large Councilor Ryan R. O'Donnell; Ward 2 Councilor Dennis P. Bidwell

Announcement of Audio/Video Recording

Councilor Sciarra announced that the meeting was being audio and video recorded for broadcast by Northampton Community Television.

Public Hearings

Public Hearings
None.

Updates from Council President & Committee Chairs

Updates from Council President & Committee Chairs
Councilor Dwight announced that a resolution to lower the voting age for municipal elections would be introduced at the next Legislative Matters Committee meeting (May 14, 2018). Fellow councilors acknowledged the birthday of Councilor Dwight.

Communications and Proclamations from Mayor

Communications and Proclamations From the Mayor:
None.

Consent Agenda

Consent Agenda
Councilor Sciarra reviewed the items on the consent agenda and asked if anyone wished to remove an item for separate discussion. Councilor Dwight asked to remove item 18.087. Councilor Klein seconded. The motion passed unanimously 7:0 by voice vote (O'Donnell and Bidwell absent).

Councilor Carney moved approval of the consent agenda. Councilor Murphy seconded. The motion passed unanimously 7:0 by voice vote (O'Donnell and Bidwell absent).

The following items were approved as part of the consent agenda:
A. Approval of Minutes of March 15, 2018
B. 18.088 Petitions for Annual Second Hand Dealer Licenses
Renewal Licenses for the following:
Cancer Connection, 375 South Street
Nancy Charbonneau, Petitioner

The Family Jewels, 56 Green Street
Richard J. Stone, Petitioner

Jack Speyer Antiques, 416 North Main Street, Leeds
Jack Speyer, Petitioner

	<p>Kids Stuff, 90 Maple Street Tami Schirch, Petitioner</p> <p>Norman E. Menard, 25 Garfield Avenue Norman E. Menard, Petitioner</p> <p>Roz's Place, 6 Bridge Street Timothy Saldo, Petitioner</p> <p>Ryans Jewelers, 14 Strong Avenue John Malikowski, Petitioner</p> <p>Stuart F. Solomon Antiques, 9-3/4 Market Street Stuart F. Solomon, Petitioner</p> <p>Urban Exchange, 233 Main Street Silvia Naumburger, Petitioner</p> <p>C. 18.089 Petition to Operate a Pool Hall Renewal License for Packards, 14 Masonic Street - Weekday License Renewal License for Packards, 14 Masonic Street - Sunday License Robert J. McGovern, Petitioner</p> <p>D. 18.091 Petition for Annual Junk Dealer License Renewal License for Norman E. Menard, 25 Garfield Avenue Norman E. Menard, Petitioner</p> <p>E. 18.092 Application for Supervised Display of Fireworks Northampton Family Fourth Committee, Inc., Applicant Pyrotecnico Fireworks, Inc., Operator</p>
<p><u>Recognitions and One-Minute Announcements</u></p> <p><u>18.087 Applications for Taxicab Licenses, 5 for Jeffrey Miller - Cosmic Cab Co.</u></p>	<p><u>Recognitions and One-Minute Announcements</u></p> <p>None</p> <hr/> <p><u>18.087 Applications for Taxicab Licenses, 5 for Jeffrey Miller - Cosmic Cab Co. Individual Taxicab License Applications:</u></p> <ul style="list-style-type: none">• 2003 Chrysler PT Cruiser – Red• 2003 Chrysler PT Cruiser – Brown• 2000 Chevy Suburban SUV – Brown• 2008 Dodge Caravan – Brown• 2008 Dodge Caravan – Black <p>Jeffrey Miller, owner of Cosmic Cab, was present. Councilor Sciarra noted that there has been some confusion about the application, particularly, confusion over where the business is operating. The application lists the address as 160 Main Street, #8, but the website shows it as Conz Street and there has been a complaint that the company is operating out of Hooker Avenue. The Hooker Avenue site is not zoned for commercial use. A finding for a pre-existing nonconforming use was granted in the past but has not been granted for the taxi company.</p> <p>Councilor Sciarra asked Mr. Miller where the business is operated. Is it at all or some of the locations, and do all of the locations comply with zoning? She asked.</p> <p>Councilor Dwight moved to recognize Mr. Miller. Councilor Carney seconded. The motion passed 7:0 by voice vote.</p> <p>He has spoken with the Building Commissioner, Louis Hasbrouck, Miller reported. The Hooker Avenue location has never been used as an office but is used to park vehicles. Given the nature of its previous use as a milk distribution building and, more recently, as a contractor business, no one thought its use would be a problem. He left 78 Conz Street and so had to find a new office. He moved to Main Street, promptly informing the City Clerk of the new location. Hooker Avenue has primarily been used to park vehicles as well as for his personal use to work on vehicles. He does not have an office there per se, he represented.</p>

Referring to the complaint lodged with the Building Department, the pictures purport to show a typical day at Cosmic Cab, but that is not the case, Mr. Miller continued. Vehicles are not typically left on the street. Parking was recently changed to prohibit parking from 11 p.m. to 5 a.m., so there is no overnight parking, he pointed out.

Councilor Sciarra asked where the five vehicles for which he is applying for licenses are kept.

In the past, he used public (city) parking lots, the same as his predecessor, Green Cab, which was located at the Maplewood Shops. He used city lots this summer after leaving his previous location on Conz Street. He didn't think there was an issue with using the city lots. He inquired about getting monthly passes but found it was more cost-effective to pay as he goes. Vehicles may be parked at Hooker Avenue overnight but are not there all day. Drivers come and get the taxis and do taxi work.

Councilor Dwight asked if he had a tenancy agreement with the owner of Hooker Avenue, and Mr. Miller said yes.

Councilor Dwight asked him to describe the activity taking place on Hooker Avenue. There is no office there and vehicles are not dispatched from the building, Mr. Miller said. Vehicle maintenance such as cleaning and washing the vehicles is done there. He was given an application today to apply for a non-conforming use.

Councilor Dwight said he personally does not want to limit the ability of Cosmic Cab to operate since it performs a valuable function but doesn't want 'gray-area' issues that will get them all in trouble. He recommended granting a permit on contingency.

As ward councilor, she's received a number of complaints about the regular presence of cabs on Hooker Avenue, Councilor Carney said. It is a small street but all the residents have contacted her. Their understanding is that zoning does not allow vehicle storage or maintenance on this residential street.

The site has long been a nonconforming commercial use, Mr. Miller pointed out.

But Cosmic Cab presently does not have permission to use the site commercially, Councilor Carney contended.

He was told by the property owner that the site was a commercial property available for use for commercial purposes, Mr. Miller said. He will be applying to the Zoning Board of Appeals (ZBA) to allow a [new] nonconforming use, he confirmed.

Councilor Sciarra asked if he had a contingency plan in case this use is not granted.

He has the office on Main Street, Mr. Miller responded.

The city solicitor has confirmed that the council has the ability to grant a temporary license to allow Mr. Miller to sort out zoning issues with the appropriate boards, Councilor Sciarra noted. Councilor Carney asked if they could attach a condition that cabs not be allowed to park on the residential street.

"No Cosmic Cab should be parked on Hooker Avenue given that you have no permission for a non-conforming use," she asserted.

Councilor LaBarge asked if the property was grandfathered for commercial use, and Councilor Sciarra said not according to the city solicitor and Building Commissioner.

Councilor Dwight asked about non-operative vehicles stored there. There are restrictions related to unregistered vehicles, he informed Mr. Miller. He thinks the intent of the council is to allow Cosmic Cab to continue operating since it provides an under-offered service. His inclination is to move for a temporary license subject to a decision from the ZBA, he volunteered.

Councilor Carney asked about adding the condition that vehicles not be parked on Hooker Avenue, but Councilor Dwight said he did not want to add an additional condition that no other taxi company is subject to. He would not mind embedding a condition relative to parking in the ordinance applicable to all cab companies, he said.

Councilor Dwight moved to grant a temporary permit conditional on the ZBA’s process and its decision, subject to renewal and more community input.

Councilor Sciarra said she would recommend the permit be limited to 60 days, and he said he was amenable to this friendly amendment. **Councilor Klein seconded.**

Councilor Murphy expressed the opinion that two issues are involved: renewing a license for a cab company and the zoning complaint on Hooker Avenue. The Building Commissioner should be taking enforcement action relative to what is going on on Hooker Avenue, he opined. Mr. Miller could put his cabs back in a public lot and run his business out of Main Street tomorrow, he pointed out.

Councilor Dwight clarified that when he was speaking of parking on Hooker Avenue, he was talking about parking on the street itself, not on the property. He expressed his understanding that taxis are allowed to park on public streets.

Taxis are actually non-commercial vehicles, Mr. Miller clarified.

The solicitor said the council is within its rights to know where the cabs are to be stored and to impose that arrangement, if acceptable to the council and consistent with zoning, as a condition of the permit, Councilor Carney stressed. They have been advised by the attorney that they are within their rights to make storage of the vehicles a condition of the permit, she elaborated.

She would be happy to grant the license with the understanding that vehicles not be stored anywhere other than the Main Street location, Councilor Carney added.

Councilor Murphy commented that it is obviously not possible to store the vehicles on Main Street. He asked if it would be acceptable to grant the permit subject to the vehicles being stored in a legally-permissible location, wherever that may be.

In response to a question from Councilor Carney, Mr. Miller said he has been using Hooker Avenue since August.

Councilor Carney asked if he would move the vehicles. Mr. Miller said sure, if he could have a little time.

The Building Commissioner has the authority to determine whether the owner is in violation and, if so, to take corrective action, Councilor Dwight confirmed. Councilors would ultimately have to defer to him, he suggested.

Councilor LaBarge asked if the Building Commissioner told Mr. Miller he had to move the vehicles off the street, and Mr. Miller said no, he told him he would have to fill out an application.

Councilor Klein agreed with Councilor Murphy that zoning enforcement is not the job of the council. Their decision needs to be whether or not to grant the permit. She asked to call the question. Councilor LaBarge seconded.

Councilor Sciarra called the motion to a vote, restating the motion as being to grant the five licenses for a limited period of 60 days. Members requested a roll call, and it passed unanimously 7:0 (Councilor O’Donnell and Councilor Bidwell absent).

<u>Resolutions:</u>	<u>Resolutions:</u>
<u>18.078 Resolution</u>	<u>18.078 A Resolution in Support of Legislation to Reduce Gun Violence in</u>

in Support of
Legislation to
Reduce Gun
Violence in
Massachusetts –
2nd Reading

Massachusetts – 2nd Reading
Councilor Dwight moved to approve the resolution in second reading.
Councilor LaBarge seconded.

Councilor Klein provided the update that the Legislatures’ Public Safety and Homeland Security Committee favorably reported out a bill that would allow a family member or law enforcement to seek an ‘extreme risk protective order’ for someone who poses a danger to themselves or others. The bill now heads to the house for further action, she related.

The motion passed unanimously 7:0 by roll call vote with Councilors O’Donnell and Bidwell absent.

The following resolution passed second reading:

CITY OF NORTHAMPTON
MASSACHUSETTS

In the City Council, April 5th, 2018
Upon the Recommendation of: Councilor Ryan R. O’Donnell
Councilor Alisa F. Klein
Northampton Youth Commission

R-18.078
A RESOLUTION
IN SUPPORT OF LEGISLATION TO REDUCE
GUN VIOLENCE IN MASSACHUSETTS

SECTION 1

RECOGNIZING THE LEADERSHIP OF YOUNG PEOPLE

WHEREAS, On March 24th, 2018, thousands of people led by young people marched from Northampton High School to City Hall as part of the Pioneer Valley “March for Our Lives” movement to demand action from government at all levels to end gun violence in the midst of an ongoing epidemic of mass shootings across the United States; and

WHEREAS, The Pioneer Valley March for Our Lives effort demonstrates and affirms that renewed leadership and urgent action are required to end gun violence in Massachusetts and the United States; and

WHEREAS, Because of its past leadership in passing and enforcing strong gun laws, the Commonwealth of Massachusetts has one of the lowest rates of deaths by guns in the United States, according to the US Centers for Disease Control and Prevention;¹

NOW THEREFORE BE IT RESOLVED that the City Council expresses its gratitude to the organizers and participants in the Pioneer Valley March for Our Lives march and all those who continue to demand action, and offers its ongoing support of this movement; and

BE IT FURTHER RESOLVED that the City Council calls on Massachusetts to continue its leadership in passing and enforcing strong gun violence

¹ Andersen, Travis. “Mass. has lowest US rate of gun deaths.” *Boston Globe*. January 11, 2017

prevention laws.

SECTION 2

EXTREME RISK PROTECTION ORDERS

WHEREAS, Among other priorities, participants in Pioneer Valley March for Our Lives demanded action on specific legislation currently pending in the Massachusetts State House, H.3610 and H.3081, which would establish “extreme risk protective orders,” whereby a judge could temporarily remove guns from persons ruled to be dangerous to themselves or others; and

WHEREAS, Such legislation would allow family members, healthcare providers and law enforcement officials to go to court and request review by a judge who could then order the seizure of weapons for up to 10 days before an evidentiary hearing, whereupon the order could be extended for up to one year; and

WHEREAS, While access to guns is the true problem, not mental illness, legislation of this kind may help in cases in which a potential shooter has shown clear signs of troubling behavior, as in the mass shooting on February 14th, 2018 at the Marjory Stoneman Douglas High School in Parkland, FL; and

WHEREAS, Similar protective order laws are already in effect in California, Connecticut, Indiana, Oregon and Rhode Island;

BE IT FURTHER RESOLVED that the City Council supports H.3610 and H.3081 and calls for the Legislature to approve these bills expeditiously.

SECTION 3

UNIVERSAL BACKGROUND CHECKS

WHEREAS, Currently in the United States, private and illicit gun sales create a loophole whereby 22 percent of all guns sold² and 80 percent of guns sold for criminal intent are sold without the buyer undergoing a background check and no record is kept;³ and

WHEREAS, In Massachusetts, though private sellers may not sell more than four guns per year and are required to check the validity of a purchaser’s Firearm Identification Card which is issued after a background check, “point of sale” background checks are not required for private gun sales;⁴ and

WHEREAS, The Giffords Law Center points out that “licensing laws do

² Miller, M., Hepburn, L., & Azrael, D. Firearm Acquisition Without Background Checks: Results of a National Survey. *Annals of Internal Medicine*, 2017 Feb 21; 166(4):233-239.

³ Wintemute, G. (2013). *Background Checks for Firearm Transfers: Assessment and Recommendations*, Davis, CA: UC Davis Medical School, Violence Prevention Research Program.

⁴ Giffords Law Center, "Background Checks in Massachusetts" <http://lawcenter.giffords.org/background-checks-in-massachusetts/>

not necessarily prevent prohibited people from accessing firearms as effectively as point-of-transfer background checks,” since someone granted a license could fall into a prohibited category between the issuance of a license and the purchase of a firearm;⁵ and

WHEREAS, Massachusetts is currently working to develop an automated system to facilitate sending records to the federal background check database;⁶ and

WHEREAS, In its 2008 *District of Columbia vs. Heller* decision, the U.S. Supreme Court ruled that universal background checks are a valid means of placing conditions and qualifications on the Second Amendment; and

WHEREAS, Research demonstrates that a strong system of background checks on people who wish to purchase guns can save lives;⁷

BE IT FURTHER RESOLVED that the City Council supports H.1283 which would require all private gun sales to take place at an authorized dealer’s location and make use of the dealer’s background check system, and calls for the Legislature to approve this bill expeditiously.

SECTION 4

DATA COLLECTION ON MULTIPLE GUN PURCHASES

WHEREAS, No federal limit currently exists on the number of guns an individual may purchase at any one time⁸; and

WHEREAS, Every year, approximately 50,000 guns are found to be sold nationally for illicit purposes across state lines with many more likely undetected in an underground market used by people who are unable to pass a background check;⁹ and

WHEREAS, Massachusetts also currently has no law restricting sales or purchases of multiple firearms;¹⁰

BE IT FURTHER RESOLVED that the City Council supports S.1292 to reduce illegal trafficking of firearms by gathering information relating to the number of multiple-gun purchases by one person, and whether any were used in a crime, and calls for the Legislature to approve this bill expeditiously.

SECTION 5

DIVESTMENT OF GUN MANUFACTURERS AND RETAILERS

⁵ Giffords Law Center, “Universal Background Checks.” <http://lawcenter.giffords.org/gun-laws/policy-areas/background-checks/universal-background-checks/>

⁶ Rocheleau, Matt. "Mass. slow to send records to federal gun background check database, prompting concerns" Boston Globe. February 22, 2018.

⁷ *Ibid.*

⁸ Weil, DS & Knox, RC, Effects of Limiting Handgun Purchases on Interstate Transfer of Firearms, *JAMA* 1996:275,1759-1761.

⁹ Aisch, G. & Keller, J. (2015, Nov 13). How Gun Traffickers Get Around State Gun Laws. New York Times. Downloaded from <https://www.nytimes.com/interactive/2015/11/12/us/gun-traffickers-smuggling-state-gun-laws.html>.

¹⁰ Giffords Law Center. "Multiple Purchases & Sales of Firearms in Massachusetts" <http://lawcenter.giffords.org/multiple-purchases-sales-of-firearms-in-massachusetts/>

	<p>WHEREAS, Taxpayer money should not finance industries that endanger the public health, whether that be the fossil fuel industry, the tobacco industry, or the gun industry; and</p> <p>WHEREAS, Of the Commonwealth’s \$71 billion worth of investments, about \$5 million is currently invested in six companies that derive substantial revenue from the sale of ammunition, guns, or gun-related accessories;¹¹ and</p> <p>WHEREAS, History shows that divestment can be an effective tactic to apply financial pressure on such industries to alter their behavior, affect a public debate, and lead to significant social change; and</p> <p>WHEREAS, State Treasurer Deborah Goldberg, who oversees the Commonwealth’s pension fund, State Senator Cynthia Creem and State Representative Lori Ehrlich have called for divestment of Massachusetts’ pension fund from all companies that manufacture guns and ammunition; and</p> <p>WHEREAS, Connecticut¹² and New Jersey¹³ are weighing similar measures;</p> <p>BE IT FURTHER RESOLVED that the City Council supports SD. 2578, which would ask the Pension Reserves Investment Management (PRIM) Board to divest the state pension fund of its holdings in companies that derive 15 percent or more of their revenue from the sale of ammunition, guns, or gun-related accessories, and calls for the Legislature to approve this bill expeditiously.</p> <p style="text-align: center;">SECTION 6</p> <p style="text-align: center;">THIS RESOLUTION</p> <p>BE IT FURTHER RESOLVED that the City Council shall send this resolution to Governor Charles Baker, Speaker of the House Robert DeLeo, Senate President Harriet Chandler, Senator Stanley Rosenberg, and the Chairs and Vice-Chairs of the Legislature’s Joint Committee on Public Safety and Homeland Security.</p> <p><u>Rules suspended, passed two readings and enrolled.</u></p>
<u>Recess for Committee on Finance Meeting</u>	<p>At 7:55 p.m. the City Council recessed for the Committee on Finance meeting. The Committee on Finance meeting adjourned at 8:05 p.m. The City Council reconvened at 8:05 p.m.</p>
<u>Ordinances</u>	<p><u>Ordinances</u></p> <p>Councilor Sciarra asked if there would be any objection to taking 18.068 and 18.069, the ordinances pertaining to newspaper legal notices, out of order since there were people present in the audience for that discussion. There being no objection, members agreed by consent to take these items out of order.</p>
<u>18.068 Ordinance</u>	<p><u>18.068 Ordinance to Eliminate Newspaper Legal Notice Requirement for Site</u></p>

¹¹ Leung, Shirley. "Legislation would force Mass. pension fund to sell gun stocks" Boston Globe. March 15, 2018.
¹² Altimari, Dave, "Connecticut Considers Divesting From Gun Manufacturers" Hartford Courant. March 1, 2018.
¹³ Marcus, Samantha. "N.J. lawmakers want to ban state investments with gun makers" NJ.com February 23, 2018.

to Eliminate Newspaper Legal Notice Requirement for Site Plan Review Projects - 1st reading
18.069 Ordinance to Eliminate Newspaper Legal Notice Requirement for Projects that Need Central Business Architecture Review - 1st reading

Plan Review Projects - 1st reading

18.069 Ordinance to Eliminate Newspaper Legal Notice Requirement for Projects that Need Central Business Architecture Review - 1st reading

Councilor LaBarge moved to take both ordinances as a group. Councilor Carney seconded.

Councilor Dwight said he needed to recuse himself since his cousins are the publishers of the Gazette. It is not really a conflict since he would not benefit financially, but it is in the spirit of the law for him to abstain, he suggested.

Councilor Sciarra read the text of both ordinances.

Members discussed. As he recalled from the joint public hearing held by Legislative Matters and the Planning Board, the Planning Department estimated they would save about \$2,000 a year by not advertising the hearings, Councilor Murphy recounted. As a practical matter, they did not believe publication resulted in many additional people attending. They would still mail notices to abutters, he confirmed.

Another reason presented was that, while state law requires publication of legal notices for hearings on Special Permits, it does not require legal notices for hearings on Site Plan Review or Central Business Architecture Review permits, since these are local constructs not included in the Zoning Act, Ms. Krutzler added.

What she found compelling at the joint hearing was the point that abutters would still be notified regardless of whether a legal notice is published, Councilor Klein related. Mr. Rifanberg raised a question as to whether internet posting by the city is sufficient to fulfill the legal requirements for archiving and to substantiate the fact of publication for the purpose of legal proceedings, she continued. She would like the answer to those questions for the next meeting.

Ms. Krutzler said she would make an inquiry to the Planning Department.

Councilor Nash pointed out that the city is changing the way it provides information.

The motion passed 6:0 by roll call vote with Councilor Dwight recused and Councilors O'Donnell and Bidwell absent.

Financial Orders (on 1st reading)
18.083 Order to Appropriate \$15,482 from Free Cash to Health Department for Emergency Preparedness Activities - 1st reading
18.084 Order to Reprogram NPS Generator \$24,000 to Leeds Parking Lot Paving Phase II - 1st Reading

Financial Orders (on 1st reading pending Finance review)

18.083 Order to Appropriate \$15,482 from Free Cash to Health Department for Emergency Preparedness Activities - 1st reading

Councilor LaBarge moved to approve the order in first reading. Councilor Carney seconded. The motion passed 7:0 by roll call vote (O'Donnell and Bidwell absent).

See minutes of May 3, 2018 for second reading.

18.084 Order to Reprogram NPS Generator \$24,000 to Leeds Parking Lot Paving Phase II - 1st Reading

Councilor LaBarge moved to approve the order in first reading. Councilor Dwight seconded. The motion passed 7:0 by roll call vote (O'Donnell and Bidwell absent).

See minutes of May 3, 2018 for second reading.

18.085 Order to Appropriate Free Cash \$35,000 to ADA Sidewalk

18.085 Order to Appropriate Free Cash \$35,000 to ADA Sidewalk Improvements - 1st Reading

Councilor LaBarge moved to approve the order in first reading. Councilor Dwight

<p><u>Improvements - 1st Reading</u></p>	<p>seconded. The motion passed 7:0 by roll call vote (O'Donnell and Bidwell absent).</p> <p>Councilor Dwight moved to suspend rules to allow a second reading. Councilor Carney seconded. The motion passed 7:0 by voice vote.</p> <p>Councilor Murphy moved to approve the order in second reading. Councilor Dwight seconded. The motion passed 7:0 by roll call vote (O'Donnell and Bidwell absent).</p> <p><u>The following order passed second reading:</u></p> <div style="text-align: center;"> <p>City of Northampton MASSACHUSETTS</p> <hr/> <p><i>In City Council</i> April 19, 2018</p> <hr/> <p>Upon recommendation of the Mayor</p> <hr/> <p><u>O-18.085 AN ORDER</u> <u>TO APPROPRIATE FREE CASH \$35,000 TO ADA SIDEWALK IMPROVEMENTS</u></p> <p><i>Whereas</i>, the City has received a grant from the Massachusetts Office of Disabilities for Accessibility Improvements in the amount of \$250,000; <i>Whereas</i>, the grant will be used to improve accessibility of the sidewalks surrounding and serving the downtown municipal complex which includes City Hall and the Puchalski Municipal Building; <i>Whereas</i>, the project must be completed by June 30, 2018 in order to receive the funds and the city desires to have a contingency on hand for any unforeseen costs; <i>Ordered, that</i></p> <p style="padding-left: 40px;">\$ 35,000 be appropriated from the FY18 General Fund Undesignated Fund Balance (Free Cash) to provide a contingency for the construction project with any unspent contingency funds being returned to the City's free cash at the conclusion of the project.</p> <p><u>Rules suspended, passed two readings and enrolled.</u></p> </div> <p><u>18.086 Order to Appropriate Free Cash \$50,000 to Structural Repairs at Memorial Hall - 1st Reading</u></p> <p>Councilor LaBarge moved to approve the order in first reading. Councilor Dwight seconded. The motion passed 7:0 by roll call vote (O'Donnell and Bidwell absent).</p> <p><u>See minutes of May 3, 2018 for second reading.</u></p>
<p><u>Financial Orders (on 2nd Reading)</u> <u>18.070 Order to Establish Water and Sewer Rates for FY 2019 – 2nd Reading</u></p>	<p><u>Financial Orders (on 2nd Reading)</u></p> <p><u>18.070 Order to Establish Water and Sewer Rates for FY 2019 – 2nd Reading</u> Councilor LaBarge moved to approve the order in second reading. Councilor Dwight seconded. The motion passed unanimously 7:0 by roll call vote. (O'Donnell and Bidwell absent)</p> <p><u>The following order passed second reading:</u></p> <div style="text-align: center;"> <p>City of Northampton MASSACHUSETTS</p> <hr/> <p><i>In the City Council, March 15, 2018</i> Upon the Recommendation of the Mayor</p> <hr/> <p><u>O-18.070 AN ORDER</u> <u>TO ESTABLISH WATER AND SEWER RATES FOR FY2019</u></p> </div> <p><i>Ordered, that:</i> Effective July 1, 2018, the per 100 cubic foot (CCF) rates for water and</p>

sewer are as follows:

WATER

Customers with 1” meter or smaller
Tier 1 consumption: 0 – 16 CCF \$4.40 per CCF (FY18 rate \$4.36 per CCF)
Tier 2 consumption: >16 CCF \$5.94 per CCF (FY18 rate \$5.82 per CCF)

Customers with meter larger than 1”
All consumption \$5.84 per CCF (FY18 rate \$5.72 per CCF)

SEWER

Non-metered
\$7.67 per CCF based on 80% of metered water consumption (FY18 rate \$7.52)

Metered
\$7.67 per CCF (FY18 rate \$7.52)

Rules suspended, passed two readings and enrolled.

18.074 Order to Reprogram Funds to Purchase Pay to Park Kiosks – 2nd Reading

18.074 Order to Reprogram Funds to Purchase Pay to Park Kiosks – 2nd Reading

Councilor LaBarge moved to approve the order in second reading. Councilor Klein seconded. The motion passed unanimously 7:0 by roll call vote with two absent (Councilor O'Donnell and Councilor Bidwell).

The following order passed second reading:

City of Northampton
MASSACHUSETTS

In City Council April 5, 2018

Upon recommendation of the Mayor

18.074 Order to Reprogram Funds to Purchase Pay to Park Kiosks

Ordered, that

\$4,498.95 of the funds remaining from the E. J. Gare Parking Garage Elevator Repairs (19303 585909) and \$2,553.24 (19303 586209) of the funds remaining from an earlier E.J. Gare Parking Garage Elevator Account be reprogrammed for the purpose of purchasing two additional parking system Pay to Park kiosks to replace single standing meters. These funds shall be combined with the \$44,000 recently appropriated in the FY19 Capital Plan for the purchase of four additional Pay to Park kiosks bringing the total appropriated to \$51,052.19 for six new kiosks.

Rules suspended, passed two readings and enrolled.

18.075 Order to Reprogram Forbes Tree and Fire Alarm Account Funds to Replace Tractor – 2nd Reading

18.075 Order to Reprogram Forbes Tree and Fire Alarm Account Funds to Replace Tractor – 2nd Reading

Councilor LaBarge moved to approve the order in second reading. Councilor Klein seconded. The motion passed unanimously 7:0 by roll call vote with two absent (Councilors O'Donnell and Bidwell).

Reading

The following order passed second reading:

City of Northampton
MASSACHUSETTS

In City Council April 5, 2018

Upon recommendation of the Mayor

18.075 Order to Reprogram Forbes Tree and Fire Alarm Account Funds to Replace Tractor

Ordered, that

\$8,621 which represents the remaining balance in the Forbes Library Tree Evaluation and Removal Account (19303 586838) and \$6,500 of the remaining balance in the Forbes Library Fire and Smoke Alarm Account (19303 586805) be reprogrammed to provide a total of \$15,121 to Forbes Library for the replacement of the 2003 John Deere tractor which is used for mowing and snow removal.

Rules suspended, passed two readings and enrolled.

18.076 Order to Authorize Payment of Prior Year Bill – 2nd Reading

18.076 Order to Authorize Payment of Prior Year Bill – 2nd Reading

Councilor LaBarge moved to approve the order in second reading. Councilor Klein seconded. The motion passed unanimously 7:0 by roll call vote with two absent (O'Donnell and Bidwell).

The following order passed second reading:

City of Northampton
MASSACHUSETTS

In City Council April 5, 2018

Upon recommendation of the Mayor

18.076 Order to Authorize Payment of Prior Year Bill

Ordered, that

the Council authorize the payment of a prior year bill in the amount of \$39.92 to North Country Landscapes for supplies for the Parking Division.

Rules suspended, passed two readings and enrolled.

18.077 Order to Rescind Remaining Borrowing Authority for River Road Retaining Wall Project – 2nd Reading

18.077 Order to Rescind Remaining Borrowing Authority for River Road Retaining Wall Project – 2nd Reading

Councilor LaBarge moved to approve the order in second reading. Councilor Klein seconded. The motion passed unanimously 7:0 by roll call vote with two absent (Councilors O'Donnell and Bidwell).

The following order passed second reading:

City of Northampton
MASSACHUSETTS

In City Council February 1, 2018

Upon recommendation of the Mayor

18.077 Order to Rescind Remaining Borrowing Authority for River Road Retaining Wall Project
Ordered, that

the City Council rescind \$1,231,500 of the remaining borrowing authority for the River Road Retaining Wall project, which was authorized in three appropriations totaling \$2,022,000 on July 1, 2013, and amended on April 3, 2015 and again on October 7, 2016, as the project is now complete. This will leave in place an authorization for \$790,500 for this project, which was permanently bonded on June 4, 2015 and June 6, 2017.

Rules suspended, passed two readings and enrolled.

Orders

18.056 An Order to Accept M.G.L. Ch. 23M ("the PACE Act") - 1st Reading
Councilor Sciarra read the text of the order.

Councilor Dwight moved to approve the order in first reading. Councilor LaBarge seconded.

The order was referred to the Northampton Energy & Sustainability Commission (NESC) for review, Councilor Dwight related. Part of the concern was that the act contains a provision allowing businesses to convert to gas. City officials have expressed numerous times the desire to achieve energy efficiency independent of fossil fuels and the objective of using 100% green energy. NESC members researched whether the city had the ability to modify this provision but discovered that they do not since they cannot change Mass. General Law. Discussion was that the net gain is too good to pass up because it is still a net gain. Even though the conversion would be to fossil fuel it would still be much more energy-efficient.

NESC came up with a qualifying clause, which they have submitted as an amendment. Councilor Dwight read the text of the additional 'WHEREAS' clause as follows:

"WHEREAS, City Council strongly prefers that renewable energy systems and energy efficiency projects are used before natural gas is considered and recognizes that PACE Massachusetts moves us toward a reduction of greenhouse gas emissions;"

He moved that the order be amended as recommended by NESC. Councilor Carney seconded. The motion to amend passed unanimously 7:0 by voice vote.

The motion to approve the amended order was called to a vote, and it passed unanimously 7:0 by roll call with two absent (Bidwell and O'Donnell).

See minutes of May 3, 2017 for second reading.

**Ordinances (on
2nd Reading)
17.265 An
Ordinance Relative
to Taxis and
Vehicles for hire -
2nd reading**

Ordinances (on 2nd Reading)

17.265 An Ordinance Relative to Taxis and Vehicles for hire - 2nd reading

The ordinance passed in first reading but was returned to Legislative Matters for further discussion of liability insurance requirements, Councilor Sciarra reminded.

**Councilor Dwight moved to approve the ordinance in second reading.
Councilor Klein seconded.**

Mr. Miller made a persuasive case that maintaining insurance levels at the rate of \$250,000/\$500,000 for injuries or death was unrealistic for a company of Cosmic Cab's size in Northampton, Councilor Dwight explained. He documented that the requirements would be higher than in New York City and Boston and surrounding communities. Accordingly, it was the recommendation of Legislative Matters to revert to the original language requiring insurance in the amount of \$100,000/\$300,000.

Due to an oversight, members did not address the question of the insurance level for property damage, so he would recommend amending the ordinance on the floor to set this requirement at \$50,000, Councilor Dwight said. Councilor Klein seconded. The motion to amend passed unanimously 7:0 by voice vote.

Councilor Sciarra proposed an additional amendment to change the phrase "principle place of business" for servicing to "all places of business" for servicing in Section 316-17 Business Owner's Permit. She offered the change in the form of a motion, and Councilor Dwight seconded. The motion passed unanimously 7:0 by voice vote.

The motion to approve the ordinance passed unanimously 7:0 by roll call with two absent (Councilors O'Donnell and Bidwell).

The following ordinance passed second reading:

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Amended by LM 4/9/2018 to restore original liability limits

CITY OF NORTHAMPTON
MASSACHUSETTS

In the Year Two Thousand and Seventeen
Upon the Recommendation of the Mayor and the Northampton Police Department

17.265
AN ORDINANCE

RELATIVE TO TAXIS AND LIVERY VEHICLES FOR HIRE

An Ordinance of the City of Northampton, Massachusetts. Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

SECTION 1

That the Code of Ordinances be amended as follows:

§ 316-13 Definitions.

As used in this article, the following terms shall have the meanings indicated:

BUSINESS OWNER'S PERMIT

Permit required to operate a business utilizing vehicles for the conveyance of people.

OPERATOR'S PERMIT

Permit required by any person operating vehicles performing services under a business owner's permit.

REGISTRATION OF VEHICLES

The filing with the City Clerk of certain information relative to vehicles providing service under a business owner's permit.

TAXICABS

A ~~metered (Hard wired or GPS Smart Phone App)~~ motor vehicle with a seating capacity not to exceed eight passengers, displaying on its exterior permanently painted or decal identification markings, a light affixed to the roof of said vehicle, and a taxi registration number plate issued by the Massachusetts Registry of Motor Vehicles, operated for hire by or on behalf of the holder of the business owner's permit or by an employee or independent contractor of said permit holder; but which does not pick up, transport, or discharge passengers along a set route.

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LIVERY VEHICLES

Any limousine or other vehicle which is designed to carry 15 or fewer passengers, including the driver, and carries passengers for hire, business courtesy, employee shuttle, customer shuttle, charter or other pre-arranged transportation, and which vehicle is not required to obtain a taxicab license under this ordinance.

§ 316-14 Reserved

§ 316-15 Reserved

§ 316-16 Exception for common carriers regulated under state law.

The provisions of this article shall not apply to any business operated in a manner and for the purposes stated in Chapter 159A of the General Laws of Massachusetts. The provisions of this article shall not apply to a holder of a certificate issued by the Department of Public Utilities.

§ 316-17 Business owner's permit.

A. No person, corporation or other entity based in Northampton shall operate a taxicab or livery business within the City of Northampton without a permit as provided herein. Permits may be granted only to suitable persons, corporations or other entities who are the legally registered owners of said taxicabs or livery vehicles, and provided that ~~the principle place of business~~ all places of business for servicing Northampton ~~is~~ are established at a legal street address within the City conforming to all applicable City ordinances and state laws.

B. Any person desiring to operate such a business within the City of Northampton shall file an application with the City Clerk for referral to the City Council setting forth the name and residence of the owners of said business, the address from which the business will be operated, the kind of service to be provided under the permit, and the hours of daily service. Said application shall also state a description of the motor vehicle(s) to be operated under the permit. No owner or driver shall solicit business except at the place of business listed, or City-approved taxi stands (per § 312-39).

C. All permits shall continue in force until the first day of May next after the date issued and shall not be sold, assigned or transferred without the approval of the City Council. A transfer includes the issuance or transfer of more than 40% of the outstanding stock of the corporation.

D. All vehicles operating under the Business Owner's Permit are subject to vehicle permitting requirements per § 316-19.

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E. The City Council shall issue to the applicant a permit which shall be placed in a conspicuous location in the applicant's place of business.

§ 316-18 Operator's permit.

A. No person shall operate a vehicle governed by the provisions of this Article unless they have obtained an operator's permit from the Chief of Police. Applicants shall apply on forms furnished by the City Clerk and shall set forth under oath such information as the Chief of Police may require. All applications shall be forwarded by the City Clerk to the Chief of Police within five days of filing of the application. The Chief of Police shall issue or deny the license within 30 days of referral.

B. Operator permits shall be signed by the Chief of Police and shall be numbered in order as granted and unless sooner suspended or revoked shall continue in force until the first day of May next following the date of issuance thereof. The Chief of Police shall cause notice of the issuance or denial of a permit to be filed with the City Clerk.

C. The permit issued to the applicant shall be encased in plastic and shall bear a color photograph of the applicant. Said permit shall be displayed in a prominent place in the interior of any vehicle while being operated as a taxicab or livery by the applicant. No permit shall be issued unless the applicant furnishes proof of having a valid Commonwealth of Massachusetts motor vehicle operator's license. Any suspension or revocation of said license or right to operate shall cause the applicant's taxi or livery operator's permit to be automatically revoked.

D. Upon being denied an operator's permit by the Chief of Police, an applicant shall have the right of appeal to the Mayor or their designee. All such appeals shall be in writing and filed with the Mayor or their designee within 10 days of the denial of the operator's permit. Appeals will be heard within 20 days of the filing thereof. The decision of the Mayor or their designee shall be final and binding.

E. It shall be the duty of the driver of any vehicle for hire to accept as passengers any person who seeks to use the services of a vehicle for hire, provided that such person conducts themselves in an orderly fashion. No person shall be admitted to a vehicle for hire occupied by a passenger without the consent of the passenger.

F. No person in charge of a vehicle for hire shall give directions, information, or service to any person seeking a place or person for unlawful purposes, or convey from place to place a person who is noisy or disorderly.

G. Loud or importunate solicitation of passengers for vehicles for hire on the public ways is prohibited.

H. It shall be unlawful to knowingly permit any vehicle for hire to be used in the perpetration of any crime.

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I. It shall be unlawful for any driver of a vehicle for hire while on duty to drink any intoxicating beverage, disturb the peace of the passenger or smoke at any time in a vehicle registered as a taxi or livery under this ordinance.

J. The licensed operator of each vehicle for hire will be responsible to make notification to the Police Department of any article of value left therein by any passenger not later than 24 hours after finding same. The company owner shall secure such item until 90 days have elapsed, and if not claimed will revert to the taxi company.

K. The licensed operator of the vehicle for hire and all passengers must comply with Chapter MGL c. 90, § 13A, regarding the wearing of seat belts.

§ 316-19 Permit requirements for vehicles

A. Vehicle Registration Requirements

1. No vehicle shall be operated for the purposes regulated under this article unless said vehicle has been registered with the City Clerk and approved by City Council. The owner shall provide the City Clerk with the year, make, model, color, current-vehicle registration number and vehicle identification number, together with the number of persons, exclusive of the operator, which it may carry and a photograph of such vehicle. The applicant shall also provide the City Clerk with a policy of insurance as provided below. No such permit shall be issued unless the applicant has presented to the City Clerk a valid certificate of taxi or livery registration issued by the Registrar of Motor Vehicles as required under 540 CMR -2.05.
- 2 No permit shall be issued until the applicant has delivered to the City Clerk a policy of insurance issued by an insurance company authorized to transact business in the Commonwealth of Massachusetts, covering the motor vehicle(s) to be operated by the applicant under their permit, nor until the applicant has also delivered to the City Clerk a certificate of the insurance company issuing the policy showing that the policy shall not be canceled without giving the City Clerk 10 days notice thereof.

Such policy shall be a policy of liability insurance which provides indemnity for or protection to the insured, and any person responsible for the operation of the insured's vehicle(s) with their express or implied consent, against loss by reason of the liability to pay damages to others for injury to property or bodily injuries, including death at any time resulting therefrom, sustained during the term of said policy by any person other than the employees of the insured or of such other person responsible as aforesaid who are entitled to payments or benefit under the provisions of Chapter 152 of the General Laws and arising out of the ownership,

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operation, maintenance, control or use upon the ways of the commonwealth, of such car to the amount or limit of at least \$100,000 on account of injury to or death of any one person, and subject to such limits as respects injury to or death of one person, of at least \$300,000 on account of any one accident resulting in injury to or death of more than one person, and to the amount or limit of at least \$50,000 on account of any one accident resulting in damage to property.

3. Every vehicle operated by the business owner shall be inspected by a state-certified inspection station yearly. A current, valid inspection sticker must be possessed upon application for registration with the City. Such inspection is at the owner's expense, and proof must be supplied to the City Clerk. Whenever the Chief of Police or their designee has reason to doubt such taxicab or livery vehicle is in safe, proper mechanical condition, properly equipped, properly lettered and in a suitably clean condition, they may suspend the City registration permit thereof without a hearing, and take possession of said permit until the conditions are corrected. The owner and/or corporation may file an appeal on the Chief of Police or their designee's action to the Mayor or their designee; however, the suspension shall remain in effect until a decision has been made. All such appeals must be made in writing and addressed to the Mayor or their designee. Appeals will be heard within 20 days of the filing thereof. The decision of the Mayor or their designee shall be final and binding.
4. All vehicles shall provide child safety seats. Taxicab and Livery companies shall provide a plan for proper child safety restraint usage in their vehicles.
5. The City Clerk shall provide the applicant registering a taxicab or livery vehicle with a placard for each vehicle bearing the words "Taxi Vehicle License, Northampton, Massachusetts," or "Livery Vehicle License, Northampton, Massachusetts" setting forth the serial number of the permit, the year issued, the name and address of the holder of the owner's business permit, the year, make and color of the vehicle and the number of passengers permitted to be carried in the vehicle, which shall be attached to the interior of the vehicle so as to be plainly visible to the occupants thereof.

B. Operation and marking of livery vehicles:

1. Livery vehicles shall be hired on a prearranged basis only, with a minimum 12 hour notice.
2. Livery vehicles shall not pick up on-demand fares on the street that were not prearranged outside of the 12 hour requirement.
3. Livery vehicles shall not have exterior vehicle markings that state "Taxi" or "Cab".
4. Livery vehicles shall not contain a rate meter, and shall not charge for service based upon miles traveled if the trip is less than 25 miles.

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- 5. Livery vehicles shall have in each vehicle for hire a pre-completed schedule trip sheet including the following information: current date, time month, and year, the name of the vehicle's company and licensed owner, the name of the vehicle's driver, the vehicle's license number, the time of all pre-scheduled pick-ups of passengers, the name, address, and phone number of the person who scheduled the pick-up, the times of all pre-scheduled pick-ups, and the origin and destination of all pre-scheduled pick-ups.
- C. Operation, marking, and metering of taxicabs:
 - 1. No taxicab shall be made so closely to resemble the taxicab of another so as to mislead the public as to its identity. All taxicabs will conform with § 22 of Chapter 40 of the General Laws, to wit, "shall have the name or trade name of the owner and the name of the City or town in which it is licensed, painted or lettered on the sides thereof in letters not less than four inches high and 1/2 inches wide.
 - 2. Taxicabs shall have exterior vehicle markings that state "Taxi" or "Cab".
 - 3. Taxicabs may be hired or hailed on an on-demand or pre-arranged basis.
 - 4. Any taxicab that is permitted in another community and does not operate a permitted taxicab business within the City limits may drop off fares in Northampton from another community and may pick up fares in Northampton and drop them in another community. However, taxicab companies that are not permitted through the City of Northampton may not pick up and drop off the same passenger within the City limits. Further, taxicab companies not permitted through the City of Northampton may transport only passengers that are hired on a pre-arranged basis and may not pick up hailed fares in the City.
 - 5. Taxicabs must include a rate meter that is either hard wired or that is a GPS Smart Phone App that is visible to the passengers.

§ 316-20 Rates of operation.

Maximum rates of operation must be clearly displayed and conveyed to the customer prior to services rendered.

Prior to services rendered taxicab and livery company dispatchers or operators must inform customers of the cost of the ride and must post a clear flat rate chart that is visible to passengers. In lieu of these requirements a taxicab may instead have a meter (hard-wired) with rates clearly posted and visible to passengers including the flag drop charge (initial charge), per mile charge, and waiting time charge.

§ 316-21 Violations and penalties.

Any owner or driver violating the requirements of §§ 316-18, 316-19 and/or 316-20 shall be subject to a penalty of \$100 for the first offense and \$200 for each and every subsequent offense. Any owner or driver violating the requirements of § 316-17 shall be subject to a penalty of \$300 for each and every offense. The City Council may suspend or

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revoke any permit issued under §§ 316-17, 316-18, and/or 316-19 for violation of any state statute, City ordinance, or any rule, order or regulation promulgated by the City of Northampton and/or the City Council. Sections 316-17, 316-18, 316-19, and 316-20 may be enforced by criminal complaint, noncriminal disposition under Chapter 40 of the Code of Ordinances, or any other civil or criminal procedure available by law.

Rules suspended, passed two readings, ordained and enrolled.

18.063 Ordinance to Rezone Parcels on Easthampton Road to Office Industrial (OI)
18.064 Ordinance to Eliminate Business Park Zoning in its Entirety from the Code
18.065 Ordinance

18.063 Ordinance to Rezone Parcels on Easthampton Road to Office Industrial (OI) - 1st reading
18.064 Ordinance to Eliminate Business Park Zoning in its Entirety from the Code - 1st reading
18.065 Ordinance to Rezone Conservation Areas to Farms Forest Rivers - 1st reading
18.066 Ordinance to Rezone a Portion of Property from URB to Office Industrial - 1st reading
18.067 Ordinance to Rezone Four Residential Properties on Riverside Drive from General Industrial to URB - 1st reading

<p><u>to Rezone Conservation Areas to Farms Forest Rivers 18.066 Ordinance to Rezone a Portion of Property from URB to Office Industrial 18.067 Ordinance to Rezone Four Residential Properties on Riverside Drive from General Industrial to URB</u></p>	<p>Members turned to discussion of the remaining zoning ordinances that were presented at the joint public hearing of the Planning Board and Legislative Matters.</p> <p>Councilor Murphy suggested taking 18.063, 18.064, 18.065, 18.066 and 18.067 as a group and presented their collective approval in first reading as a motion. Councilor Dwight seconded.</p> <p>Planners mostly discussed that this was ‘cleaning up’ zoning districts. There was very little public comment, Councilor Dwight added.</p> <p>Councilor Sciarra read the titles of each of the proposed ordinances.</p> <p>Councilor Carney moved to waive the reading of the ordinances. Councilor Nash seconded. The motion to waive the reading passed unanimously 7:0 by voice vote.</p> <p>The motion to approve 18.063, 18.064, 18.065, 18.066 and 18.067 in first reading passed unanimously 7:0 by roll call vote (Councilors Bidwell and O’Donnell absent).</p>
<p><u>Information Requests (Charter Provision 2-7) and Information Study Requests</u></p>	<p><u>Information Requests (Charter Provision 2-7) and Information Study Requests</u></p> <p>None</p>
<p><u>Motion to Adjourn</u></p>	<p>At 8:43 p.m., a motion to adjourn was made by Councilor Dwight and seconded by Councilor Klein. The motion passed on a voice vote of 7 Yes, 0 No, 2 absent.</p> <p>Attest: Laura Krutzler, Administrative Assistant to the City Council</p>